

DEPARTMENT OF PUBLIC HEALTH
AND HUMAN SERVICES

CHAPTER 8

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Subchapter 1

General

37.8.101 REGISTRARS, GENERAL (1) The department shall provide to each county clerk and recorder the name, address and telephone number of the local registrars in that county.

(2) Each local registrar shall submit to the department and the county clerk and recorder the name, address, and telephone number of at least one proposed deputy registrar, who may function as a deputy after receiving written authorization from the department to do so. The deputy registrar may function as registrar when the registrar is unavailable.

(3) Each registrar must report to the department and the county clerk and recorder any change in the name, address, or telephone number for the registrar or the deputy registrar.

(4) Before resigning or retiring as registrar, a registrar must send the department notification of the fact and a recommendation for a replacement. A resignation or retirement will be effective the last day of the month the notification is received by the department. The appointment of a replacement registrar will be effective the first day of the month after the replacement receives the appointment letter.

(5) On the fifth day of every month, each local registrar must mail to the department all original certificates, (birth, death, and fetal death) filed with the registrar during the previous month. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 50-15-103, 50-15-104, 50-15-105 and 50-15-109, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.102 DEFINITIONS In addition to the definitions contained in 50-15-101, MCA, the following definitions apply to this chapter:

(1) "Amendment" means alteration of any item on the face of a vital record after it is on file with the department or in a county clerk and recorder's office.

(2) "Authorized certifier" means, in relation to a certified copy of a vital record, either a county clerk and recorder or a person designated by the department to issue certified copies on its behalf.

(3) "Certified copy" means a document copied or electronically extracted from a vital record filed with the department or from a duplicate copy of that record filed with a county clerk and recorder and that is printed on the department's security paper and contains an attestation by an official designated by the department that the document is a true and correct copy of the information contained in the original vital record.

(4) "Certifying official" means an individual authorized to issue a certified copy of a vital record by the department's office of vital statistics or a county clerk and recorder.

(5) "Literal format" means, in regard to a date, the name of the month spelled out, the numerical day of the month, and the numerical four-digit year, e.g., January 1, 1998.

(6) "Next of kin" means the spouse, parents, adult children, and adult brothers and sisters of a registrant and any other person declared next of kin by a court of competent jurisdiction.

(7) "Registrant" means an individual for whom a vital record is completed and filed, including, for example, the decedent on a death certificate, the person for whom a birth certificate is filed, the husband and wife on a divorce record, and the bride and groom on a marriage record. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP; Sec. 50-15-101 and 50-15-103, MCA; NEW, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.103 PRESERVATION OF COPIES OF RECORDS (1) After a local registrar has received, numbered, and signed a death, birth, or fetal death certificate, the registrar shall file the original with the department and one copy with the county as required by 50-15-109, MCA. The local registrar must retain a triplicate copy of each paper certificate, which must be filed to be easily accessible for reference.

(2) A registrar must retain for two years each copy of a paper certificate recorded in accordance with 50-15-109, MCA. After two years, the local registrar may request written permission from the department to destroy the triplicate copy of the certificates.

(3) Triplicate copies may not be destroyed unless the department gives written permission to do so.

(4) Submission to and acceptance of an electronic image of a birth, death, or fetal death certificate by the department through the department's approved electronic registration system constitutes an official filing of a record. All certified paper copies generated from electronically filed records must be accepted as though they contain all required signatures.

(5) When leaving the position of local registrar, the outgoing registrar must deliver all records to the succeeding registrar or to another person designated by the department. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 50-15-102, 50-15-103, 50-15-109 and 50-15-124, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.104 AUTHORIZED FORMAT FOR SUBMISSION OF A VITAL RECORD (1) All marriage license applications and birth, death, fetal death, and marriage certificates must be submitted on forms provided or authorized by the department.

(2) Each vital record application and certificate must be typed or plainly written in unfading black ink that is legible on all copies or must be completed using computer printers that produce dense and legible characters in black. The characters entered onto these forms must be adequate for high quality reproduction of all parts of the forms by microfilming or photocopying.

(3) If the preparation of a certificate or application is so poor as to make the reading of the form difficult or if the entries are not dark enough to reproduce satisfactorily, the registrar shall notify the person who submitted the certificate or application that it is unacceptable. The person who filed the certificate or application must prepare and file a new certificate or application within 10 days after receipt of the notification. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 40-1-107, 50-15-102, 50-15-103, 50-15-121 and 50-15-124, MCA; Eff. 12/31/72; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.105 PRESERVATION OF OLD RECORDS (1) Employees of the department, for purposes of making old or faded records suitable for microfilming or photocopying may:

(a) trace those parts of the record that are too dim to be microfilmed;

(b) retype the record on a separate form and microfilm the retyped copy; or

(c) copy the original vital record and trace those parts of the record that are too dim to be microfilmed.

(2) If (1)(b) or (c) are employed, the original record must be retained for reference purposes.

(3) In no case may the department or any of its employees change the substance or contents of any vital record.

(4) If the original vital record is illegible and the substance or content cannot definitely be determined, illegible portions must not be retraced, and, if retyped, the copy shall indicate those portions of the original that were illegible. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 50-15-102 and 50-15-103, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.106 AMENDMENT OF VITAL RECORDS (1) Any requested or ordered amendment to a filed vital record must be submitted in writing to the department's office of vital statistics for processing. On receipt of a request or court order, the department shall immediately notify the appropriate county clerk and recorder to suspend certification of the affected record until the department issues a letter of correction.

(2) With the exception noted in (4), a filed original vital record must be amended by placing a line through the information to be amended and typing the new information above the line. Electronic records must be amended by overlaying the new information on all electronic images of the record used for certified copies. Any certified copy issued in the state after an amendment will be marked "ALTERED".

(3) The documentation that justifies the alteration of a vital record must be made available upon request to any person receiving a certified copy.

(4) In the case of adoption, establishment of paternity or legitimation, a new certificate, which does not indicate that it was altered, will replace the original birth certificate. In order to establish the replacement certificate, the department must be provided with a certified copy of the certificate of adoption, a certified copy of the final order of adoption, a certified copy of the court order establishing paternity, or an acknowledgment of paternity signed by both parents and notarized. The child's name, as it appears on the original certificate, the child's date of birth and, if available, the county of birth must also be provided.

(5) Except in the cases cited in (4), amendment of a registrant's given names or surnames on a birth certificate may be made only if the department receives a certified copy of an order from a court of competent jurisdiction. The court order or request that directs the name change must include the registrant's name as it appears on the certificate, the registrant's date of birth and, if available, the county of birth, parents' names including mother's maiden name and information sufficient to locate and identify the record to be altered. If the order from the court directs the issuance of a new certificate that does not show amendments, the new certificate will not indicate on its face that it was altered.

(6) The sex of a registrant as cited on a certificate may be amended only if the department receives a certified copy of the order of a court of competent jurisdiction indicating that the sex of an individual born in Montana has been changed by surgical procedure. The order must contain sufficient information for the department to locate the record. If the registrant's name is also to be changed, the court order must indicate the full name of the registrant as it appears on the birth certificate and the full name to which it is to be altered. Any certified copy issued after the amendment must indicate it was altered.

(7) In cases other than those cited in (4) through (6), the department may amend any portion of a vital record if a requestor submits a correction affidavit that includes the following:

(a) the name of the registrant or registrants appearing on the record;

(b) the date and place of birth, death, or fetal death or date and place of marriage or marital termination;

(c) the specific items on the record that are to be changed, including the information as presently shown and the correct information;

(d) the relationship of the affiant to the registrant;

(e) certification by the affiant that all affected parties concur in the changes, and that the affiant assumes the responsibility of supplying irrefutable proof that the changes are correct. If not all parties agree to the changes, an order of a court of competent jurisdiction directing that the changes be made is required;

(f) the names and addresses of the concurring affected parties referred to in (7)(e); and

(g) the notary's statement, signature and seal.

(8) Any subsequent change to information previously altered through this process will require an order of a court of competent jurisdiction. (History: Sec. 50-15-102, 50-15-103, 50-15-204 and 50-15-223, MCA; IMP, Sec. 50-15-102, 50-15-103, 50-15-204 and 50-15-223, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

Rules 07 and 08 reserved

37.8.109 REGISTRAR'S MONTHLY STATEMENT OF CERTIFICATES FILED (1) To facilitate and to insure proper accounting, local registrars shall submit to the department a monthly statement of certificates filed on or before the fifth day of each month on blank forms supplied by the department and shall retain copies for their own files. The statement must indicate the number of birth, death, and fetal death certificates filed in the registrar's county during the prior month and forwarded to the department. If none were filed, the statement must so indicate. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 50-15-102, 50-15-107 and 50-15-109, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.110 PAYMENT OF FEES TO LOCAL REGISTRARS (1) The department shall certify to the treasurer of each county the number of births, deaths, and fetal deaths registered in such county, with the names of the local registrars, and the amounts due them. Such certifications must be made annually unless in the opinion of the department it is desirable to make them more often.

(2) Registrars are entitled to a payment of \$1 per certificate or monthly report filed. (History: Sec. 50-15-102, 50-15-103 and 50-15-107, MCA; IMP, Sec. 50-15-102 and 50-15-107, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

Rules 11 through 15 reserved

37.8.116 FEES FOR CERTIFICATION, FILE SEARCHES, AND OTHER VITAL RECORDS SERVICES

(1) The fee for a certified copy (photocopy or computer-produced) of a birth certificate, a death certificate, a fetal death certificate, an acknowledgment of paternity, or a delayed birth registration is \$12 for the first copy of a specific request and \$5 for each additional copy of the same record requested at the same time as the first copy.

(2) The department shall charge a fee of \$10 per name for a record search within any period of five years or less. If the record is not located, the fee will not be refunded. If the request is for more than five years, an additional fee of \$1 per year over the first five years will be charged.

(3) The fee for providing record information for statistical or administrative purposes as allowed by law is \$5 for each five-year period per name.

(4) The fee to process a finalized adoption or a rescission of an adoption is \$25. A certified copy of the new certificate will be provided.

(5) The fee to open a court ordered sealed file is \$25.

(6) The fee for filing a delayed registration of a vital record is \$25. A certified copy of the delayed certificate will be provided to the person filing the delayed registration.

(7) The fee for amending or correcting a vital record after one year from the date of filing is \$15. A certified copy of the amended record will be provided to the person requesting the amendment or correction.

(8) The fee for a search of the putative father registry is \$10 per name.

(9) The fee to provide electronic copies of index files is \$25 per monthly update and \$25 for an annual update.

(10) The fee for producing aggregate statistics is \$25 per hour for programming and processing if that processing takes more than half an hour's work on existing programs.

(11) The fee for a disinterment permit is \$5. The local registrar shall collect the fee, \$2 of which must be remitted to the department.

(12) Overpayment of a required fee received in the office of vital statistics will be refunded if in excess of \$5, and any overpayment of less than \$5 will be refunded, if the applicant requests it in writing within one year after the payment to the department. (History: Sec. 50-15-102, 50-15-103 and 50-15-111, MCA; IMP, Sec. 42-2-218 and 50-15-111, MCA; Eff. 12/31/72; AMD, 1981 MAR p. 1188, Eff. 10/16/81; AMD, 1983 MAR p. 731, Eff. 7/1/83; AMD, 1992 MAR p. 143, Eff. 1/31/92; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 4/1/02.)

Rules 17 through 25 reserved

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37.8.126 ACCESS TO RECORDS (1) Anyone who submits a completed state or county application may obtain a certified copy of a death certificate. If a death certificate lists the cause of death as "pending autopsy" a certified copy may not be issued.

(2) The following people may obtain a certified copy of a birth record:

(a) a registrant, upon establishing their identity to the satisfaction of the certifying official;

(b) a spouse, child or parent of a registrant to whom the requested record pertains, upon establishing their identity and relationship to the registrant to the satisfaction of the certifying official;

(c) an individual having legal guardianship of the registrant, upon submitting a copy of a legal document showing establishment of the guardianship;

(d) an individual who needs a certified copy to protect their personal or property rights, upon submitting a notarized or certified document that states that the applicant is required to obtain a certified copy in order to protect the applicant's personal or property rights; or

(e) an authorized representative of the registrant, or an authorized representative of the spouse, child, parent or legal guardian of a registrant, upon establishing their identity to the satisfaction of the certifying official.

(3) The following may not receive a copy, certified or uncertified, of a registrant's birth records:

(a) a former spouse whose marriage to the registrant was terminated through divorce, annulment or invalidation and who has subsequently remarried; or

(b) a natural parent of an adopted child when the parent does not have custody of that child.

(4) Anyone who requests a birth certificate of an individual who was born 30 years or more earlier will be issued a non-certified copy of the certificate.

(5) A clerk of the district court may issue a certified copy of a marriage or marital termination record to anyone listed in (2) after receiving a completed application for the record and establishing the identity of the requestor and the requestor's relationship to the registrants.

(6) A certifying official may not file, issue or certify a copy of a vital record from another state or country.

(7) Unless authorized by the department, a county certifying official may not provide a copy, certified or otherwise, of a birth certificate in the official's custody to another county's certifying official for filing. (History: Sec. 50-15-103, 50-15-113 and 50-15-122, MCA; IMP, Sec. 50-15-103, 50-15-113, 50-15-121 and 50-15-122, MCA; NEW, 1983 MAR p. 1351, Eff. 9/30/83; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.127 APPLICATION FOR COPY OF VITAL RECORD (1) Each application for a certified copy of a vital record must be in writing and contain the applicant's name, signature, address and the purpose for which the certified copy is needed.

(2) For a certified or non-certified copy of a birth record, in addition to the requirements of (1), the request must include:

- (a) the registrant's full name and date of birth;
- (b) the place (town or rural location and county) of birth;
- (c) the mother's full maiden name (first, middle and last);
- (d) the father's full name, if available; and
- (e) the applicant's relationship to the registrant.

(3) For a certified or non-certified copy of a death record, in addition to the requirements of (1), the application must include:

- (a) the registrant's full name;
- (b) the date of death; and
- (c) the county of death. (History: Sec. 50-15-102, 50-15-103 and 50-15-121, MCA; IMP, Sec. 50-15-103 and 50-15-121, MCA; NEW, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.128 CONTENTS OF CERTIFIED AND NON-CERTIFIED COPIES

(1) Each certified copy of a vital record issued in Montana must include:

- (a) the date the copy is issued;
- (b) the name of the authorized certifier;
- (c) the signature of the authorized certifier or a facsimile approved by the certifier; and
- (d) the seal (raised or embossed) of the issuing agency or office.

(2) Each certified birth record must include, in addition to the items in (1):

- (a) the given name of the registrant;
- (b) the surname of the registrant along with any generational identifiers present on the original filed document such as Jr., Sr., etc.;
- (c) the date of birth, in literal format (e.g., January 1, 1990);
- (d) county of birth;
- (e) sex;
- (f) the date the original record was filed, in literal format; and
- (g) the names of the registrant's parents. If the father's name is not included on the filed document, the phrase "NOT RECORDED" must be displayed on the certified copy where the father's name would normally appear.

(3) Each certified death record must include, in addition to the items in (1):

- (a) the given name of the registrant;
 - (b) the surname of the registrant along with any generational identifier present on the original filed document such as Jr., Sr., etc.;
 - (c) the date of death in literal format;
 - (d) the date of birth in literal format;
 - (e) the county of death;
 - (f) the sex; and
 - (g) the date the record was filed, in literal format.
- (4) Non-certified copies of a certificate must:
- (a) be printed on white non-security paper;
 - (b) at the top of the certificate, be stamped "FOR INFORMATIONAL PURPOSES ONLY";
 - (c) not contain a raised seal or any statement that will certify the copy as true; and
 - (d) not be signed. (History: Sec. 50-15-102, 50-15-103 and 50-15-121, MCA; IMP, Sec. 50-15-103, 50-15-121 and 50-15-122, MCA; NEW, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

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37.8.129 FORMAT AND PAPER REQUIREMENTS FOR CERTIFIED COPIES (1) With the exception noted in (2), effective February 15, 2003, all certified copies of birth, death and fetal death records must be issued on paper that contains the following security features:

- (a) sensitized security paper;
- (b) background security design;
- (c) copy-void pantograph;
- (d) consecutive numbering;
- (e) prismatic printing;
- (f) complex colors; and
- (g) watermark.

(2) A certified copy may be issued on non-secure paper only if the copy contains a tamper-proof seal and all of the information, signatures, and seals required by ARM 37.8.128. Any alternate method of issuing a certified copy must be approved by the department, in writing, before its official use.

(3) Each certified copy of a vital record issued in Montana must contain the heading "STATE OF MONTANA" centered at the top of the copy, and, if issued by a county clerk and recorder, a centered heading naming the county of issuance immediately below the "STATE OF MONTANA" heading.

(4) Each certified copy of a vital record issued in Montana must contain the following certification and issuance statements at the bottom:

This certifies that this document is a true duplication of the original information on file with the Department of Public Health and Human Services.	Signature or facsimile <hr/> typed name Certifying official's title
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(History: Sec. 50-15-102, 50-15-103 and 50-15-122, MCA; IMP, Sec. 50-15-102, 50-15-103, 50-15-121, 50-15-122 and 50-15-123, MCA; NEW, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

Subchapter 2 reserved

Subchapter 3

Birth

37.8.301 CERTIFICATE OF BIRTH (1) A certificate of birth for every child born in Montana must be completed and filed within 10 calendar days after the date of birth.

(2) If a birth occurs in a health care facility, the certificate must be filed by the attending physician, physician's designee, the person in charge of the health care facility, or the designee of that person.

(3) If a birth occurs en route to a health care facility, the person in charge of the health care facility or that person's designee must prepare and file the birth certificate in accordance with 50-15-221(3), MCA.

(4) With the exception of a birth that occurs en route to a health care facility, if a birth occurs somewhere other than in a health care facility, a birth certificate must be prepared and filed by the person indicated by 50-15-221(4), MCA, along with a signed and notarized affidavit stating:

(a) the state and county of the birth;

(b) the name of the person or persons, if any, in attendance at the birth;

(c) the child's given names and surname, sex, hour, date, and place of birth; and

(d) the father's full name, if available, and the mother's full maiden name.

(5) If no one in attendance at the birth is available, the local registrar will comply with 50-15-202, MCA, and complete the certificate using information obtained with reasonable certainty.

(6) All births must be filed using either a paper or an electronic image of the most current Montana certificate of live birth form provided by the department.

(7) The information in the section of a birth certificate labeled "information for medical and health use only" is provided to the department only, and is neither considered to be nor certified as part of the legal birth certificate.

(8) All dates must be in literal format (e.g., January 1, 2000, instead of 1-1-00). (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-102, 50-15-103, 50-15-109, 50-15-112, 50-15-113, 50-15-201, 50-15-202 and 50-15-221, MCA; Eff. 12/31/72; AMD, 1977 MAR p. 124, Eff. 7/26/77; AMD, 1981 MAR p. 1188, Eff. 10/16/81; AMD, 1987 MAR p. 1481, Eff. 8/28/87; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.302 PARENTAL REVIEW OF BIRTH CERTIFICATE INFORMATION

(1) Before a mother who recently gave birth in or en route to a health care facility leaves the facility in which the birth occurred, the health care facility administrator or the administrator's authorized designee shall present a completed birth certificate to a parent of the child so they may verify the information contained in the birth certificate. When the parent agrees that the information is correct, the parent shall sign the certificate after the words "I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief." If the information is not correct, the birth certificate must be redone with the correct information and presented again to the parent for signature.

(2) A parent's informational copy (not a certified copy) of the birth certificate must be given to the parent at the time he or she signs the certificate.

(3) If a birth occurs outside of a health care facility, the person responsible for certifying the live birth and filing the birth certificate under the provisions of 50-15-221(4), MCA, must fulfill the same duties as those specified in (1) and (2) for a health care facility administrator. (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-102, 50-15-103, 50-15-108, 50-15-109 and 50-15-221, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.303 DELAYED BIRTH CERTIFICATE (1) Any person born in the state of Montana whose birth was not properly recorded within one year after the birth may file and receive a delayed birth certificate if the requirements of this rule are met.

(2) The birth must be filed on a Montana delayed birth registration form available from the department.

(3) The person filing the form must submit to the department documents proving the applicant's name, the date and place of birth and the applicant's parents' names. Documentation of the name of the applicant and the date and place of birth must be supported by at least the following:

(a) if the record is filed within five years after the date of birth, either a health care facility record created at the time of birth and two pieces of documentary evidence meeting the requirements of (4) or, if a health care facility record is not available, three pieces of such documentary evidence; or

(b) if the record is filed five years or more after the date of birth, three pieces of documentary evidence meeting the requirements of (5).

(4) For any person under the age of five, the documents must be dated at least one year before the date of the application or within the first year of birth.

(5) Any document submitted in evidence for any person five years of age or older must be dated at least five years before the date of application or within three years after the date of birth.

(6) No two of the documents submitted as evidence may be from the same source and only one document may be a sworn affidavit. A sworn affidavit must state the date and place of birth of the applicant, establish the age of the affiant and the fact that the affiant was present at the birth and be signed by a person who is at least 10 years older than the applicant for the delayed birth certificate.

(7) Of the documents that are not sworn affidavits, at least one must establish the place, month, day and year of birth; one must establish the town or county and state of birth; and they must establish the full names of both parents, including the mother's maiden name.

(8) Only official copies of documents will be accepted. Affidavits from notary publics that they have examined documents will not be accepted in lieu of official documents. Altered documents will not be accepted.

(9) If an application for a delayed birth certificate is incomplete or does not meet the department's issuance criteria as listed above, the department shall notify the applicant of:

- (a) the problems;
- (b) the procedures necessary to rectify the problems; and
- (c) the right to seek an order from a court of competent jurisdiction to obtain registration of the delayed birth certificate.

(10) If, after notification, the application is not actively pursued for a period of 180 days, the application and supporting documents will be returned to the applicant and a new fee, application and supporting documentation will be required to reapply. (History: Sec. 50-15-102 and 50-15-204, MCA; IMP, Sec. 50-15-103 and 50-15-204, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

Rules 04 through 08 reserved

37.8.309 CHILDREN BORN OUT OF WEDLOCK, CERTIFICATE FOR (REPEALED) (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-103 and 50-15-109, MCA; Eff. 12/31/72; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; REP, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.310 ADOPTION (1) A certificate of adoption must include the following information:

(a) the child's name (before adoption), sex, date and place of birth, and names of natural parents;

(b) name, date and place of birth and residence of adoptive parents at the time of the child's adoption;

(c) the name of the child as set forth in the adoption decree;

(d) name and address of the attorney or agency handling the adoption;

(e) if this is a stepparent adoption or single parent adoption, indication of that fact; and

(f) certification by the clerk of a district court.

(2) Once a registrar has been notified of an adoption, the registrar must send all original birth documents to the department within 30 days. (History: Sec. 50-15-102 and 50-15-303, MCA; IMP, Sec. 50-15-102, 50-15-303 and 50-15-311, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

Subchapters 4 and 5 reserved

Subchapter 6

Marriage

37.8.601 MARRIAGE APPLICATIONS AND LICENSES (1) In addition to the information required by 40-1-107, MCA, the marriage license application form must contain the following information, which must be reported to the department:

(a) the names and places of birth of the parents of each party;

(b) the date and place of the marriage, the name of the officiant, and whether it will be a religious or civil ceremony.

(2) The marriage license application form must indicate whether the parties are related to each other, and if so, the relationship.

(3) The marriage license application form must also contain the following information, for the benefit of local officials:

(a) whether prior applications were rejected, and if so, why;

(b) whether either party is under the influence of intoxicating liquor or narcotic drugs;

(c) the future address and telephone number of the parties;

(d) the certification by the parties of the foregoing information; and

(e) signature of the judge where required, and notarization by the clerk of court. (History: Sec. 50-15-102, MCA; IMP, Sec. 40-1-107, 50-15-102, 50-15-103 and 50-15-301, MCA; Eff. 12/31/72; AMD, Eff. 4/5/76; AMD, 1981 MAR p. 1188, Eff. 10/16/81; AMD, 1987 MAR p. 1481, Eff. 8/28/87; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.602 REPORT OF DISSOLUTION OR INVALIDITY OF MARRIAGE (REPEALED) (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-103, 50-15-302 and 50-15-303, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; REP, 2002 MAR p. 397, Eff. 2/15/02.)

Subchapter 7 reserved

Subchapter 8

Death

37.8.801 DEATH CERTIFICATE (1) A certificate of death for each death that occurs in Montana must be completed and filed using a current Montana certificate of death form.

(2) Death certificate forms may be obtained from the department or printed using commercial computer software that produces the approved form.

(3) The person in charge of final disposition of the dead body shall present the death certificate to the physician, advanced practice registered nurse, or coroner for cause of death certification within three working days after being notified of the death or receiving the authorization for removal, transportation, and final disposition of a dead body, whichever occurs first.

(4) The certifying physician, advanced practice registered nurse, or coroner shall complete and return the death certificate to the person in charge of final disposition of the body within 48 hours of receipt. If the cause of death certification is pending autopsy results, then the cause of death must be listed as "pending autopsy results". When the final results are received, they must be sent to the department using a correction affidavit.

(5) The certifying physician, advanced practice registered nurse, or coroner may only certify and amend the date of death, time of death, place of death, or cause of death data. A certifying physician, advanced practice registered nurse, or coroner aware of errors in the demographic data must notify the person in charge of final disposition of the body of any errors.

(6) The person in charge of final disposition of a body may only certify the demographic data on the death certificate. The person in charge of final disposition of a body aware of errors in the cause of death data must notify the certifying physician or coroner of the error.

(7) Within 10 calendar days after the date of the death or the date it was first discovered, the person in charge of final disposition of a body must file a properly completed death certificate with the local registrar of the county where the death occurred. (History: Sec. 50-15-102, 50-15-103 and 50-15-403, MCA; IMP, Sec. 50-15-109, 50-15-124, 50-15-403 and 50-15-405, MCA; Eff. 12/31/72; AMD, 1977 MAR p. 124, Eff. 7/26/77; AMD, 1981 MAR p. 1188, Eff. 10/16/81; AMD, 1987 MAR p. 1481, Eff. 8/28/87; AMD, 1993 MAR p. 3023, Eff. 1/1/94; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.802 FETAL DEATH CERTIFICATE (1) A fetal death certificate must be completed and filed as specified in 50-15-403, MCA, using a Montana certificate of fetal death form.

(2) Fetal death certificate forms must be obtained from the department.

(3) The person in charge of final disposition of the body of a fetus shall present the fetal death certificate to the physician, advanced practice registered nurse, or coroner for cause of death certification within three working days after being notified of the death or receiving the authorization for removal, transportation, and final disposition of a dead body, whichever occurs first.

(4) The certifying physician, advanced practice registered nurse, or coroner shall complete and return the fetal death certificate to the person in charge of final disposition of the fetal body within 48 hours after receiving the certificate. If the cause of fetal death is pending autopsy results, then the cause of death on the certificate must be listed as "pending autopsy results". When the final results are received, they must be sent to the department using a correction affidavit.

(5) The certifying physician, advanced practice registered nurse, or coroner may only certify and amend the date, hour, and place of delivery; cause of death data; or medical and health information on a fetal death certificate. A certifying physician, advanced practice registered nurse, or coroner who is aware of any error in the demographic data must notify the person in charge of final disposition of the body of the fetus of the error.

(6) The person in charge of final disposition of the body of a fetus may only certify the demographic data on the fetal death certificate. The person in charge of final disposition of the body of a fetus who is aware of an error in the cause of death data must notify the certifying physician, advanced practice registered nurse, or coroner of the error.

(7) Within 10 calendar days after the date of the fetal death or the date it was first discovered, the person in charge of final disposition of the body of the fetus must file a properly completed fetal death certificate with the local registrar of the county where the death occurred. (History: Sec. 50-15-102 and 50-15-124, MCA; IMP, Sec. 50-15-102, 50-15-109, 50-15-124, 50-15-403 and 50-15-405, MCA; NEW, 1981 MAR p. 1187, Eff. 10/16/81; AMD, 1987 MAR p. 1481, Eff. 8/28/87; AMD, 1993 MAR p. 3023, Eff. 1/1/94; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

37.8.803 NOTIFICATION OF HEALTH OFFICERS BY REGISTRAR, WHEN (1) In the case of death from a dangerous, communicable disease occurring in a registration district in which the local registrar has no jurisdiction as health officer, the registrar shall immediately notify the health officer having jurisdiction of the name and address of the deceased person and the name of the physician who attended the same, so that all precautions regarding quarantine, isolation, conduct of public funerals and disinfection of premises as required by the public health law and regulations of the department may be properly observed.

(2) The provisions of (1) apply in the case of deaths from the diseases listed in ARM 37.114.203.

(3) Persons in charge of interment are responsible for the strict observance of the regulations of the department relative to the burial of bodies dead of communicable diseases. (History: Sec. 50-1-202, MCA; IMP, Sec. 50-1-202, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460.)

37.8.804 COURT ORDERED FILING OF BIRTH OR DEATH CERTIFICATE (1) Only a Montana or federal court of competent jurisdiction may order a birth or death certificate issued for a birth or death that occurred within Montana.

(2) A local registrar may not complete a court ordered birth certificate. The court order must be submitted directly to the department's vital statistics office, whereupon a certificate will be prepared and placed on file.

(3) A local registrar may not complete a court ordered death certificate. The court order must be submitted directly to the local coroner, who will prepare and file the certificate with the department's vital statistics office.

(4) When a court order from a Montana or federal court of competent jurisdiction directs the preparation and filing of a birth certificate, the information necessary to complete the certificate must be specified in the order.

(5) When a death is legally presumed but not confirmed, as in the case where the body has not been found, a death certificate may be filed only by the order of a Montana district or federal court of competent jurisdiction directing the local coroner to prepare and file a death certificate with the department and specifying the information necessary to complete the certificate. (History: Sec. 50-15-102 and 50-15-103, MCA; IMP, Sec. 50-15-204 and 50-15-404, MCA; NEW, 1985 MAR p. 275, Eff. 3/29/85; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

Rules 05 through 07 reserved

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37.8.808 DEAD BODY REMOVAL AUTHORIZATION (1) A completed dead body removal authorization form must include, as a minimum:

(a) insofar as possible, the decedent's full name or, in the case of a fetal death, the full name of the mother;

(b) the place of death, including city, county, name and address of facility if applicable, address of a place which is not a named facility or the specific geographic location if an address does not exist;

(c) the date death occurred or was first discovered or date of delivery if a fetal death;

(d) a signed and dated authorization statement along with, if applicable, a signed and dated certification of oral authorization;

(e) a signed and dated statement of assumption of responsibility for filing the death or fetal death certificate; and

(f) social security number of the decedent.

(2) The physician, physician's designee, coroner having jurisdiction or mortician who authorizes the removal of a dead body or the remains of a fetal death from the place of death must complete a dead body removal authorization on the department's form and, before or at the time of removal, if the person authorizing removal is:

(a) a physician or physician's designee, give all three copies of the form to the person in charge of disposition;

(b) a coroner or mortician, retain a copy of the completed form and give the other two copies to the person in charge of disposition, unless (2)(c) applies; or

(c) also the person in charge of disposition, retain all three copies and comply with (3).

(3) The person who removes a dead body or the remains of a fetal death from the place of death must retain a copy of the completed department dead body removal authorization form for that removal and mail or otherwise deliver the remaining copy or copies to the local registrar within 48 hours of the body's removal.

(4) If the registrar receives more than one copy of a completed dead body removal authorization form, he must retain one copy and provide the other copy to the coroner having jurisdiction. (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-102 and 50-15-405, MCA; NEW, 1993 MAR p. 3023, Eff. 1/1/94; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.809 NOTIFICATION OF FAILURE TO FILE (1) A local registrar must immediately notify the department, orally or in writing, whenever:

(a) the registrar has received a completed dead body removal authorization form for a decedent but does not receive a death or fetal death certificate, whichever is appropriate, for the same decedent within 10 days after the death occurred or was discovered.

(b) the registrar has received a death or fetal death certificate for a decedent but has not received a dead body removal authorization form for that same decedent. (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-106, MCA; NEW, 1993 MAR p. 3023, Eff. 1/1/94; TRANS, from DHES, 1997 MAR p. 1460.)

Rules 10 through 15 reserved

37.8.816 DISINTERMENT PERMITS (1) A disinterment permit must be completed and filed using a department disinterment permit form.

(2) Disinterment permit forms are available from the local registrar and will be provided to the registrar by the department.

(3) The request for disinterment must be made by the decedent's next of kin, by court order, or by a public official authorized by law to make such a request. The endorsement on the permit must indicate the source of authority for the request and reasonable cause for the disinterment.

(4) The permit consists of five copies distributed as follows:

(a) the original copy must accompany the body for use by the receiving cemetery or crematory;

(b) a copy must be retained by the cemetery where the disinterment occurs, by the applicant to whom the permit is issued, and by the local registrar; and

(c) a copy must be sent to the department.

(5) To facilitate and assure proper accounting, the department may issue pre-numbered permit forms to local registrars as required. (History: Sec. 50-15-102 and 50-15-407, MCA; IMP, Sec. 50-15-407, MCA; NEW, Eff. 8/4/73; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2002 MAR p. 397, Eff. 2/15/02.)

Subchapters 9 through 15 reserved

Subchapter 16

Institutions

37.8.1601 INFORMATION RECORDED (1) The records of all hospitals or other facilities or institutions for the care of persons must contain the following information: Full name of patient; address; sex; race; marital status; date of birth; age; occupation; birthplace; name of father; birthplace of father; maiden name of mother; birthplace of mother; disease at entrance; dates of entrance, discharge, removal, or death and other information required for the completion of birth, death and fetal death certificates.

(2) The requirements of Title 50, chapter 15, MCA, shall be literally enforced. Hospitals, other institutions, doctors offices, morticians, communal colonies and all other persons responsible for the generation or recording of vital statistics shall furnish such information or reports as required by Title 50, chapter 15, MCA, or the rules of the department. (History: Sec. 50-15-102, MCA; IMP, Sec. 50-15-103, 50-15-108 and 50-15-109, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, 1981 MAR p. 1188, Eff. 10/16/81; TRANS, from DHES, 1997 MAR p. 1460.)

Subchapter 17 reserved

Subchapter 18

Tumor Registry

37.8.1801 REPORTABLE TUMORS (1) The following tumors are designated as reportable:

- (a) malignant neoplasm, with the exception of a basal or squamous carcinoma of the skin;
- (b) skin cancer of the labia, vulva, penis or scrotum;
- (c) benign tumor of the brain, including a:
 - (i) meningioma (cerebral meninges);
 - (ii) pinealoma (pineal gland); or
 - (iii) adenoma (pituitary gland);
- (d) carcinoid tumor, whether malignant, benign or not otherwise specified (NOS).

(2) A benign tumor other than one of those listed in (1) may be reported to the department for inclusion in the tumor registry if prior approval has been obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Montana Central Tumor Registry, 1400 Broadway, PO Box 202951, Helena, MT 59620-2951.

(3) A tumor which is otherwise reportable, but has been diagnosed and recorded using the words "questionable", "possible", "suggests" or "equivocal" is not considered a reportable tumor.

(4) Whenever records of a patient with a tumor which would be reportable, if confirmed, contain the words "suspect", "probable", "suspicious", "compatible with" or "consistent with" in reference to that tumor, the tumor is considered reportable.

(5) In order for the department to maintain current reporting, hospitals shall submit to the department information on reportable tumors within six months from the date of discharge; independent laboratories shall submit to the department information on reportable tumors within six months from the date the laboratory service associated with the tumor was rendered. (History: Sec. 50-15-706, MCA; IMP, Sec. 50-15-703, MCA; NEW, 1982 MAR p. 391, Eff. 2/26/82; AMD, 1985 MAR p. 1857, Eff. 11/30/85; AMD, 1988 MAR p. 726, Eff. 4/15/88; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.1802 REQUIRED RECORDS, INITIAL ADMISSION AND TREATMENT (1) Whenever a hospital initially provides medical services to any patient relating to a tumor designated as reportable by ARM 37.8.1801, it must collect, record and make available to the department the following information about that patient:

- (a) name and current address of patient;
- (b) patient's address at time of diagnosis;
- (c) social security number;
- (d) name of spouse, if any;
- (e) phone number;
- (f) race, sex, marital status and religion (optional);
- (g) age at diagnosis, place of birth and month, day and year of birth;
- (h) name, address and phone number of friend or relative to act as contact, plus relationship of that contact to patient;
- (i) date and place of initial diagnosis;
- (j) primary site of tumor (paired organ);
- (k) sequence of primary tumors if more than one;
- (l) other primary tumors;
- (m) method of confirming diagnosis;
- (n) histology, including dates, place, histologic type and slide number;
- (o) summary staging, including whether in situ, localized, regional, distant or unstaged, with no information;
- (p) description of tumor and its spread, if any, including size in centimeters, number of positive nodes, number of nodes examined and site of distant metastases;
- (q) whether American joint committee on cancer (AJCC) staging is utilized, and if so, the findings of the staging;

(r) cumulative summary of all therapy directed at the subject tumor, including:

(i) date of therapy;

(ii) specific type of surgery or radiation therapy, if any; and details of chemical, hormonal or other kinds of treatment; and

(iii) if no therapy given, reason for lack of therapy;

(s) status at time of latest recorded information, i.e., whether alive or dead, tumor in evidence or recurring or status unknown;

(t) if recurrence of tumor, type and distant sites of first recurrence;

(u) names of physicians primarily and secondarily responsible for follow up;

(v) date of each follow up; and

(w) if patient has died, date of death, place, cause and whether autopsy performed. (History: Sec. 50-15-706, MCA; IMP, Sec. 50-15-703, MCA; NEW, 1982 MAR p. 391, Eff. 2/26/82; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

37.8.1803 REQUIRED RECORDS, FOLLOW UP (1) Whenever a patient for whom information has been provided to the tumor registry is admitted to the hospital providing the information on an inpatient or outpatient basis for further treatment related to the tumor for which original registration in the tumor registry was made, the hospital must keep on file the following information:

- (a) patient's name, noting any change from previous records;
- (b) any paired organ involvement, noting sequence;
- (c) subsequent histology, including dates, place, histology type, slide number and procedure;
- (d) date, type of procedure and findings of any surgery or other exploratory measure;
- (e) date and type of any administration of radiation;
- (f) date of any administration of hormones, chemotherapy, immunotherapy or any other kind of treatment;
- (g) date of death and/or last follow up;
- (h) if death has occurred, the place, cause and whether an autopsy was performed;
- (i) if autopsy performed, its findings pertaining to cancer;
- (j) status at time of latest recorded information, i.e., whether alive or dead, tumor in evidence or has recurred or status is unknown;
- (k) if recurrence of tumor, type and distant sites of first recurrence; and
- (l) names of those physicians primarily and secondarily responsible for follow up treatment. (History: Sec. 50-15-706, MCA; IMP, Sec. 50-15-703, MCA; NEW, 1982 MAR p. 391, Eff. 2/26/82; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)

Rules 04 through 07 reserved

37.8.1808 REQUIRED RECORDS, INDEPENDENT CLINICAL LABORATORIES (1) Whenever a clinical laboratory which is not owned or operated by a hospital provides laboratory services for any patient relating to a tumor designated as reportable by ARM 37.8.1801, it must collect, record and make available to the department the following information about that patient:

- (a) name and current address of patient;
- (b) patient's address at time of diagnosis;
- (c) social security number;
- (d) name of spouse, if any;
- (e) race, sex and marital status;
- (f) age at diagnosis, month, day and year of birth;
- (g) date and place of initial diagnosis;
- (h) primary site of tumor (paired organ);
- (i) sequence of primary tumors, if more than one;
- (j) method of confirming diagnosis;
- (k) histology, including dates, place, histologic type and slide number;
- (l) summary staging, including whether in situ, localized, regional, distant or unstaged, with no information;
- (m) description of tumor and its spread, if any, including size in centimeters, number of positive nodes, number of nodes examined and site of distant metastasis;
- (n) status at time of latest recorded information, i.e., whether alive or dead, tumor in evidence or recurring or status unknown; and
- (o) names of physicians primarily and secondarily responsible for follow up. (History: Sec. 50-15-706, MCA; IMP, Sec. 50-15-703, MCA; NEW, 1985 MAR p. 1857, Eff. 11/30/85; TRANS, from DHES, 1997 MAR p. 1460; AMD, 2003 MAR p. 2441, Eff. 10/31/03.)